IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 18886 of 2004

Between:

G. Venkateswara Rao, S/o. Sri Chenchaiah,
R/o. Wyra Road, Khammam, Khammam District.

..... PETITIONER

AND

1 The Chief Engineer (R & B) Roads, Errummanzil, Hyderabad.
2 The Managing Director, A.P.Road Development Corporation,
& I.A. for APSHP & APERP., Errummanzil, Hyderabad.
3 The Superintending Engineer, R & B Circle, Seetammadhara,

Visakhapatnam.
4 The Pay & Accounts Officer, Y.R.C. Wing, Maharanipet,

Visakhpatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in deducting the seigniorage fee on ordinary earth from the work bills of the petitioner in respect of Agreement Bond bearing No. 30/MAINT/APSHP/2001-02 and No. 31/MAINT/APSHP/2001-02 entered into with the 2nd respondent, as illegal, arbitrary and without authority of law and consequently direct the respondents to refund the seigniorage fee on ordinary earth deducted from the bills of the petitioner under the above said agreements.

Counsel for the Petitioner: MR.N.SIVA REDDY

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

The Court, at the stage of admission, made the following :

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ORAL ORDER

The petitioner is a contractor. He entered into an agreement with the 2nd respondent on 20-12-2001. He executed several works entrusted by the respondents. The petitioner was paid the money for the work done after deducting seigniorage charges on earthwork also.

The contention of the petitioner is that there is no condition in the agreement for deduction of the seigniorage charges on ordinary earth. Therefore, the petitioner received the amounts under protest from the respondents and requested to return the amount deducted towards seigniorage charges of earthwork. Since, there was no action from the respondents, he approached this Court through this writ petition seeking to hold the recovery of seigniorage charges by the respondents as illegal and arbitrary.

The learned counsel for the petitioner brought to the notice of this court a Judgment of a Division Bench of this Court, in W.P.No.2054 of 2004, wherein the Division Bench passed the following Order:

“Following the said view we allow the writ petition directing the respondents not to collect any seigniorage charges from the petitioner for digging ordinary earth in respect of execution of contract work covered under the agreement. No costs. However, we make it clear that if the tax is included in the estimate on the earthwork component, it can be deducted as per G.O.Ms.No.23, dated 05-03-1999.”

In view of the above said order of the Division Bench, the writ petition is disposed of directing the respondents not to collect the seigniorage charges on the ordinary earthwork, in the absence of a condition in the agreement entered into between the parties and in the absence of inclusion of seigniorage charges while assessing the cost of the work entrusted to the petitioner.

The writ petition is accordingly disposed of. No order as to costs.

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Dr.G.YETHIRAJULU,J

16th NOVEMBER 2004

*TSNR

To

1 The Chief Engineer (R & B) Roads, Errummanzil, Hyderabad.
2 The Managing Director, A.P.Road Development Corporation,
& I.A. for APSHP & APERP., Errummanzil, Hyderabad.
3 The Superintending Engineer, R & B Circle, Seetammadhara,

Visakhapatnam.
4 The Pay & Accounts Officer, Y.R.C. Wing, Maharanipet,

Visakhpatnam.

5. 2 CCs tof G.P for R&B,High Court Buildings,Hyderabad.

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